

# ARP COBRA Subsidy

Client Webinar Series

April 29, 2021

LAURA BIBB, Senior Compliance Counsel

SHEILA COHEN, Compliance Counsel

APRIL SPATAFORA, Account Manager



**ProBenefits**

*The benefit of trust.*

# Quick Updates and Resources

- Announcing **Sheila Cohen**, new attorney
- Link to subsidy information on *ProBenefits.com* for employer/advisor partners & individuals
- Compliance alert and updates for employers & advisors
- Educational & training materials available COBRA & related topics



# Resources

- Follow us on social media for news and helpful information for participants & partners



- *Our team:* Available to assist you every day



# Topics

- Quick Refresher: COBRA Basics
- New ARP COBRA Subsidy Rules
- Next Steps for Employers
- How to Make Updates in the ProBenefits COBRA portal
- Your questions



# COBRA in Simplest Form

- A health plan participant who
- loses group health plan coverage (referred to as a "qualified beneficiary" or "QB")
- due to a qualifying event ("QE")
- may elect to continue health plan coverage
- for a limited period of time
- by paying for the coverage



# COBRA Qualifying Events

- Termination of employment
- Reduction of hours
- Ceasing to be dependent child under plan
- Divorce or legal separation from covered employee
- Covered employee becomes entitled to Medicare
- Death of covered employee
- Employer bankruptcy (applies only to retiree plans)



# Which Employers Must Comply With the COBRA Provisions under ERISA?

Employers:

- with 20 or more EEs (FT or PT)\*
- that sponsor a group health plan

Note: Small employers are exempt, but may be subject to state continuation rules (mini-COBRA)

\*measured on a typical day the during preceding calendar year



## Employers Not Subject to ERISA's COBRA Provisions:

- Governmental employers
  - Instead, state and local governmental employers with 20 or more EEs (FT or PT)\* are subject to COBRA provisions under the Public Health Services Act (PHSA)
- Certain church plans

Note: Small governmental employers are exempt, but may be subject to state continuation rules (mini-COBRA)

\*measured on a typical day the during preceding calendar year





# What Types of Plans Are Subject To COBRA?

Employer-sponsored "group health plans" (fully insured & self-funded)

- Medical benefit plans
- Dental benefit plans
- Vision benefit plans
- Group cancer or critical illness benefit plans (other than fixed indemnity plans)
- Prescription drug benefit plans
- Health FSAs and Health Reimbursement Arrangements (HRAs)
- Certain EAPs
- Wellness programs
- On-site clinics
- Telemedicine programs
- Other group benefit programs providing medical treatment



# Types of Plans Not Subject To COBRA:

- Life and AD&D benefit plans
- Disability benefit plans
- Long-term care plans
- Fixed indemnity plans
- Individual supplemental policies
- HSA plans
- Dependent Care FSAs



# Standard COBRA Timeline

General Rights Notice

90 days after coverage begins

COBRA qualifying event

Specific Rights Notice

44 days\* after qualifying event

COBRA election deadline

60 days after Specific Rights Notice

Initial premium due

45 days after election

Maximum coverage period

18 (or 36) months

Notice of COBRA termination

*"as soon as practicable"*



# Duration of COBRA

- 18 months if qualifying event is:
  - Termination of employment or reduction of hours
- 36 months if qualifying event is:
  - Dependent ceasing to be dependent; divorce or legal separation; death of employee; employee enrollment in Medicare
- *Special rules:*
  - *Multiple qualifying events (36 months)*
  - *Disability extension (29 months)*



# COBRA Subsidy: ARP and Guidance Update

As of 4/29/21:

- Law: American Rescue Plan Act ("ARP") passed 3/11/21
- DOL FAQ (4/7/21) – aimed at informing individuals, but provides some helpful information for employers
- DOL Model Notices (4/7/21)
- Dedicated DOL subsidy website (4/7/21):

<https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

Note: We anticipate additional guidance from the IRS/Treasury at some point



# COBRA Subsidy: In Simplest Form

- A 100% COBRA premium subsidy
- for all group health plans except Health FSAs
- available to Assistance Eligible Individuals (“AEIs”)
- for up to 6 months (April 1 – September 30, 2021)
- Paid by the employer and reimbursed through a payroll tax credit



## COBRA Subsidy: What does “100%” subsidy mean

- A subsidy eligible individual is not responsible for any part of the COBRA premium that would otherwise be due
- This includes any administration fee
- Employer payment of 100% = COBRA premium + 2% administrative fee



## COBRA Subsidy: Who Must Comply?

- Private employers and employee organizations (unions) subject to ERISA;
- State and local governments subject to PHSA; and
- Insurance carrier for plans subject to state continuation laws





# COBRA Subsidy: Which Plans Are Impacted?

Employer-sponsored "group health plans" (fully insured & self-funded)

- Medical benefit plans
- Dental benefit plans
- Vision benefit plans
- Group cancer or critical illness benefit plans (other than fixed indemnity plans)
- Prescription drug benefit plans
- Health Reimbursement Arrangements (HRAs)
- Certain EAPs
- Wellness programs
- On-site clinics
- Telemedicine programs
- Other group benefit programs providing medical treatment



# COBRA Subsidy: Which Plans Are Not Impacted?

- Health FSA (but it is a COBRA-eligible benefit)
- Life and AD&D benefit plans
- Disability benefit plans
- Long-term care plans
- Fixed indemnity plans
- Individual supplemental policies
- HSA plans
- Dependent Care FSAs

# COBRA Subsidy: Subsidy Period

- The subsidy period is April 1, 2021 through September 30, 2021.
- The subsidy period for an AEI will end earlier if the individual:
  - reaches the end of his/her maximum COBRA continuation coverage (or comparable state continuation coverage) period;
  - becomes eligible for other comprehensive group health plan coverage\* (e.g., through a new employer's plan or a spouse's plan);  
or
  - becomes eligible for Medicare.\*

\*An AEI must notify the employer/carrier of his/her eligibility for such coverage. Penalties may apply for failing to do so.



# Subsidy Mechanics for ProBenefits COBRA Clients

- ProBenefits provided all COBRA clients with a list of QBs in our system who have reduction of hours/termination as a QE
- Employer will identify in the ProBenefits system individuals who qualify as AEIs (more later!)
- ProBenefits will send required notices and attestation form to identified AEIs
- AEI returns required forms and attestation form to ProBenefits

# Subsidy Mechanics for ProBenefits COBRA Clients

- AEI begins to receive subsidized coverage (AEIs will not receive direct payment of the subsidies and are not taxed on subsidized amounts paid on their behalf).
- Employers will make premium payments due (monthly premiums + administrative fees) for continuation coverage for AEIs between April 1, 2021 - September 30, 2021.
- Employers will recoup COBRA subsidy premium payments (102%) through quarterly tax credits against their payroll tax liabilities
- AEIs who have paid for any month falling within the subsidy period will receive a refund within 60 days of payment
- ProBenefits will send subsidy expiration notice 30 days prior to subsidy end date

# COBRA Subsidy: Assistance Eligible Individuals (AEIs)

An AEI is any person (an employee or any family member with plan coverage) who:

- became eligible for COBRA continuation coverage on or after October 1, 2019, as a result of either:
  - an involuntary\* termination of employment; or
  - a voluntary or involuntary reduction in hours (e.g., due to a change from full-time to part-time status, a temporary leave of absence, a change in the company's hours of operation, etc.); **and**

\*The DOL has not provided guidance regarding the terminations that must be treated as "involuntary" terminations. Prior subsidy guidance suggests that employers should interpret this provision broadly. Employers may be penalized for failing to offer the subsidy to an individual who qualifies as an AEI.



## COBRA Subsidy: AEIs (continued)

- is either:
  - currently enrolled in COBRA continuation coverage; or
  - is now electing COBRA continuation coverage either:
    - due to a qualifying event that occurred on or after April 1 - September 30, 2021; or
    - pursuant to an additional election opportunity\* provided under the ARP

\*The additional election opportunity does not apply to state continuation coverage.



## **COBRA Subsidy: No Double Dipping on Assistance**

AEIs enrolled in or eligible for Medicaid, or who have Marketplace coverage are eligible

- However, any premium tax credit, advance payment of the premium tax credit, or health insurance tax credit otherwise available is not available during the subsidy period (and if received must be repaid when filing 2021 taxes)





# COBRA Subsidy: Eligibility Exceptions

The following individuals are **not** eligible for the subsidy:

- Covered employees who were terminated for gross misconduct (and their family members);
- Individuals who are eligible for Medicare;\* and
- Individuals who are eligible for other comprehensive group health plan coverage\* (e.g., through a new employer's plan or a spouse's plan).

Note: Coverage under a health FSA, QSEHRA, liability policy, limited scope plan or other "excepted benefits" plan does not qualify as comprehensive group health coverage and will not prevent an individual from obtaining the subsidy.

\*These individuals are ineligible for the subsidy even if they have not actually enrolled in the other group plan/Medicare; but they would not be considered ineligible during an applicable waiting period prior to coverage.



# COBRA Subsidy: Additional Election Opportunity

A “second bite of the apple” election opportunity for AEs who:

- Are still within their maximum COBRA coverage period as of April 1, 2021; and either
  - Previously declined COBRA coverage; or
  - Previously elected COBRA coverage and later discontinued COBRA coverage.

Note: This opportunity does not apply to individuals subject to state continuation coverage.



# COBRA Subsidy: Additional Election Opportunity

- Affected AEIs have 60 days to elect COBRA coverage after notice is provided
- Coverage is **prospective** beginning April 1 (or from the date of their election)
- No requirement to elect retroactive and pay back premiums (but Outbreak Period will allow)
- The maximum COBRA coverage period is not extended

Example: An AEI whose COBRA coverage would have begun 11/1/19, will **only** have one month (April 2021) of subsidized coverage because their **18**-month COBRA coverage period ends April 30, 2021.

# COBRA Subsidy: Voluntary Plan Enrollment Option

- Employers may allow AEIs to enroll in coverage that is different from the coverage in place at the time of the QE if:
  - the COBRA premium for the alternative coverage must be the same or lower than the COBRA premium for the coverage in place at the time of the QE;
  - the alternative coverage is offered to similarly situated active employees; and
  - the alternative coverage is not limited to only excepted benefits, a QSEHRA, or health FSA.
- Notice is required and AEIs have 90 days to make a change and will continue to be eligible for the COBRA subsidy.



# COBRA Subsidy: New Notice Requirements

- Notice of Premium Assistance
  - Specific Rights Notice for new QEs April 1 – September, 2021
  - Notice to those already receiving COBRA
- Notice of Additional Election Opportunity
- Notice of Subsidy Expiration
- Notice for State Continuation Assistance (insurance carrier requirement)

New Form: Subsidy Eligibility Attestation (“AEI Attestation”)



# COBRA Subsidy: Notice of Premium Assistance

- QBs who become eligible for COBRA between **April 1, 2021** and **September 30, 2021**, must be notified at the time\* they receive their COBRA election forms, of:
  - the right to elect COBRA coverage; and
  - the right to premium assistance for AEIs with respect to such coverage between the period of April 1, 2021 - September 30, 2021
- These QBs will have 60 days to elect COBRA coverage and complete an AEI Attestation.

\*For those QBs who have already received a COBRA election notice, a second notice (relating to the subsidy) will be required.



## COBRA Subsidy: Notice of Premium Assistance (Cont.)

- **QBs currently receiving COBRA coverage** (*i.e.*, those who elected COBRA prior to April 1, 2021) must be notified by May 31, 2021, of:
  - the right to premium assistance with respect to such coverage between the period of April 1, 2021 - September 30, 2021.
- These QBs will have 60 days to complete an AEI Attestation in order to receive subsidized coverage



# COBRA Subsidy: Notice of Additional Election Opportunity

- **QBs with an additional election opportunity** (*i.e.*, those who, prior to April 1, 2021, either declined COBRA or elected and later discontinued COBRA) must be notified by May 31, 2021, of:
  - the additional election opportunity (“second bite of the apple”) with respect to the unexpired portion of their maximum COBRA coverage period; and
  - the right to premium assistance with respect to COBRA coverage between the period of April 1, 2021 - September 30, 2021.
- These QBs will have 60 days to elect COBRA and complete an AEI Attestation.
- AEI may elect to receive COBRA (with premium assistance) prospectively (from the date of their election), or as of April 1, 2021.
- *Remember:* the maximum COBRA coverage period is not extended





# COBRA Subsidy: Notice of State Continuation Assistance

- **Individuals who become eligible for state continuation coverage between April 1, 2021 and September 30, 2021**, must be notified, by the carrier, at the time they receive their election forms, of:
  - the right to continuation coverage; and
  - the right to premium assistance with respect to such coverage between the period of April 1, 2021 and September 30, 2021.



# COBRA Subsidy: Expiration of COBRA Subsidy

AEIs must be notified of the expiration of their premium assistance as follows:

- 15 to 45 days prior to the AEI's date his/her subsidy expires (ProBenefits will send 30 days prior)
- The notice must include:
  - the subsidy expiration date (*i.e.*, the earlier of September 30, 2021, or the last day of the AEIs maximum period of COBRA coverage); and
  - General information relating to the health plan coverage options available to the AEI upon subsidy expiration (e.g., non-subsidized COBRA coverage, Marketplace coverage, individual coverage, etc.).



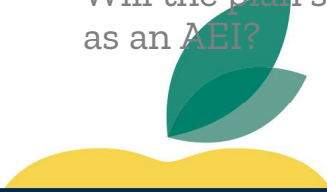
# COBRA Subsidy: Premium Assistance Limitations

- Prior COVID-related guidance has provided employers and individuals extensions for certain COBRA deadlines (“Outbreak Period” guidance under Notice 2021-01)
- The ARP does not alter those rights, which are independent of the subsidy.
- However, no extensions apply to the notice and election period related to the subsidy.
- The ARP does not extend an AEI’s maximum COBRA coverage period (*i.e.*, the 18-month period following the QE or loss of plan coverage) beyond its original expiration date.



# COBRA Subsidy: Some Unanswered Questions

- What is an involuntary termination?
- Will the subsidy apply during a period of extended COBRA coverage?
- Is a person "eligible" for other group health coverage if the open enrollment period and special enrollment period were available but have expired?
- Does an AEI have a special enrollment right for other group health plan coverage upon expiration of the subsidy?
- What are the specific details and instructions for employers to obtain tax credits, including advance credits?
- What is the impact of severance agreements (or other COBRA subsidies provided by employers) on the ARP subsidy/tax credits?
- What if the last known address for an AEI is no longer valid?
- Will the plan's appeals process apply to disputes relating to whether an individual qualifies as an AEI?



## COBRA Subsidy: Next Steps for ProBenefits COBRA Clients

- This week, all COBRA clients received a list of potential AEIs
- Review list of AEIs and mark each as Eligible or Ineligible
- Upload list on ProBenefits COBRA Employer Portal by May 7<sup>th</sup>
- Required notices will begin going out to eligible AEIs mid-May
- AEIs must complete attestation of eligibility before subsidy applies



## COBRA Subsidy: How to Update

- Log in to ProBenefits COBRA Employer Portal (<https://cpb.probenefits.com/>)
- Instructions available for download on ProBenefits ARP COBRA Subsidy page



## Only have a few AEs? Easily update the member record.

- Find member record
- Under Event Information, edit AEI 2021 Status
- Update

**Event Information**

Event Category: Employee

Event Type: Termination

Event Date: 02/29/2020

Date Entered: 03/05/2020

Original Date of Hire/Enrollment Date: 03/08/2013

Last Day of Initial Grace Period:

**Edit AEI 2021 Status**

AEI 2021 Status \*

- UNKNOWN
- ELIGIBLE**
- INELIGIBLE

Cancel Update

AEI 2021 Status: UNKNOWN [Edit](#)



## How to run a QB AEI 2021 Report

- Imports & Reports
- Standard Reports
- Report type "QB AEI 2021 Report"
- Email
- Run Report



- Account
- Members
- Imports & Reports
  - Imports
  - AEI 2021 Status Update
  - Accounting Reports
  - Standard Reports**
  - Report Inbox
  - Job Queue
- Recent Activity
- Help

### Standard Reports

Choose Report Type

Description  
This report contains a listing of COBRA participants in the ARPA look back who will be identified as eligible individuals.

#### Report Settings

REPORT FORMAT

Comma Separated Values Text File

#### Run Report

Email Addresses to notify when Report is complete \*

Your Report will be placed into the Job Queue and the email addresses above will be notified when it is complete.



# How to retrieve the QB AEI 2021 Report after you run it

- Imports & Reports - Job queue
- View and save report

The screenshot shows a web application interface for managing jobs. On the left is a navigation menu with options: Home, Account, Members, Imports & Reports (expanded), and Recent Activity. The 'Imports & Reports' menu includes: Imports, AEI 2021 Status Update, Accounting Reports, Standard Reports, Report Inbox, and Job Queue (highlighted). The main content area is titled 'Job Queue' and features a 'Refresh' button. Below the title is a section for 'Active Jobs' with a 'Show 10 entries' dropdown. A table lists the jobs with columns: Entered Date/Time, Category, Job Type, Started Date/Time, Completed Date/Time, Download Results, and Message. The first row, 'QB AEI 2021 Report', is highlighted with a red border.

| Entered Date/Time       | Category     | Job Type           | Started Date/Time     | Completed Date/Time   | Download Results     | Message  |
|-------------------------|--------------|--------------------|-----------------------|-----------------------|----------------------|----------|
| > 04/28/2021   12:03 PM | Report       | QB AEI 2021 Report | 04/28/2021   12:03 PM | 04/28/2021   12:03 PM | <a href="#">View</a> | Complete |
| > 09/29/2020   10:20 AM | Large Report | Remittance         | 09/29/2020   10:20 AM | 09/29/2020   10:20 AM | <a href="#">View</a> | Complete |
| > 09/29/2020   10:16 AM | Large Report | QB Plan Members    | 09/29/2020   10:16 AM | 09/29/2020   10:16 AM | <a href="#">View</a> |          |
| > 09/29/2020   10:13 AM | Report       | Paid Through       | 09/29/2020   10:13 AM | 09/29/2020   10:13 AM | <a href="#">View</a> |          |



## How to edit the QB AEI 2021 Report for import

- Edit *only* Column D – AEI 2021 Status
- Only Eligible will receive required notices
- Save as .CSV

|   | A         | B          | C   | D               | E           | F         | G        | H          | I                      |   |
|---|-----------|------------|-----|-----------------|-------------|-----------|----------|------------|------------------------|---|
| 1 | Last Name | First Name | MID | AEI 2021 Status | SSN         | QE Date   | FDOC     | LDOC       | Event Type             | C |
| 2 | Harvey    | Sarah      | 33  | Eligible        | xxx-xx-7777 | 1/31/2020 | 2/1/2020 | 7/31/2021  | TERMINATION            | C |
| 3 | Smith     | Rebecca    | 24  | Ineligible      | xxx-xx-6788 | 2/29/2020 | 3/1/2020 | 8/31/2021  | TERMINATION            | C |
| 4 | Bean      | Anna       | 29  | Eligible        | xxx-xx-6789 | 5/1/2020  | 6/1/2020 | 11/30/2021 | INVOLUNTARYTERMINATION | C |
| 5 | Baynes    | Bailey     | 30  | UNKNOWN         | xxx-xx-2222 | 5/14/2020 | 6/1/2020 | 11/30/2021 | TERMINATION            | C |
| 6 | Harvey    | Sarah      | 32  | UNKNOWN         | xxx-xx-7777 | 5/7/2020  | 6/1/2020 | 11/30/2021 | TERMINATION            | C |
| 7 | Haskin    | Marilyn    | 35  | UNKNOWN         | xxx-xx-1111 | 5/15/2020 | 6/1/2020 | 11/30/2021 | TERMINATION            | C |



# How to import the QB AEI 2021 Report

- Imports & Reports
- AEI 2021 Status Update
- Select saved .CSV file
- Email
- Run Status Update



- Home
- Account
- Members
- Imports & Reports
  - Imports
  - AEI 2021 Status Update**
  - Accounting Reports
  - Standard Reports
  - Report Inbox
  - Job Queue
- Recent Activity
- Help

## AEI 2021 Status Update

### Select File

QB AEI 2021 Report - Updated 4-28-21.c **Select**

### Status Update

Email Addresses to notify when Status Update is complete  
jsmith@email.com

**Run Status Update**

Your Status Update File will be placed into the Job Queue and the email address above will be notified when it is complete.

# COBRA: HELP!

- COBRA is complicated, time consuming, & involves risk (even more so now!) - We are here to help
- Dedicated COBRA Subsidy Link on ProBenefits Website
- Outsourcing not only saves time & money, but provides communication & compliance buffer between employer & former participants
- **In addition to administrative support, training options & compliance assistance are available**

# ProBenefits

- Full focus on plan administration & compliance
- Admin for FSA, HRA, HSA, COBRA, POP, Transit
  - *Advanced integration with enrollment/data systems*
  - *Full customer service & compliance support*
- ERISA compliance: Form 5500 & Wrap SPD prep
- Benefits attorneys & experienced compliance team
  - *Substantial tools & training options available*



# Q&A

Our presentation has ended, but we're responding to your submitted questions in [Questions](#) on the Control Panel. You may also email Qs to [COBRA@ProBenefits.com](mailto:COBRA@ProBenefits.com).



**ProBenefits**

*The benefit of trust.*



Thank you